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GCCMS #: 2019-009-00068
EKME #: 4014786

To: Timothy Sargent
Pour:

Date: FEB 13 2019

Object: **MEETING WITH DEPUTY MINISTER BRUCE GRAY, MANITOBA**
Objet:

From / De: Luke McKay, Director, Intergovernmental Affairs

FEB 12 2019

Via: Anne Lamar, Senior Assistant Deputy Minister, Strategic Policy

FEB 13 2019

Additional approvals:
Autre(s) approbation(s):

Scott Gilbert
Regional Director General
Central and Arctic Region

☐

Material for the Minister
Documents pour le Ministre

☐

Your Signature
Votre signature

☒

Information

Remarks: This briefing note was developed in consultation with the following
Remarques: regions/sectors:

Drafting Officer/
Rédacteur:

Nathan Morris (990-0510) / Luke McKay / nl



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SCENARIO NOTE FOR THE DEPUTY MINISTER

MEETING WITH DEPUTY MINISTER BRUCE GRAY, MANITOBA SUSTAINABLE DEVELOPMENT

Date and Location of Meeting: February 15, 2019 (11:30-12:00 pm EST); phone call

Objective:

To establish a DM-level working relationship with Manitoba and advance common goals to promote and protect shared aquatic ecosystems and fisheries.

Key Points to Register

Key issues currently at the forefront of DFO's relationship with Manitoba, include: aquatic invasive species, marine mammal regulations and the Freshwater Fish Marketing Corporation. Mr. Gray's biography is attached in Annex A. Background information is also provided in Annex B.

1. ***Canadian Council of Fisheries and Aquaculture Ministers (CCFAM)*** – The annual CCFAM Deputy Ministers' meeting is being planned for April 2019 in Saskatchewan. You may wish to provide your colleague an indication of timing and probe for any key issues he would like to discuss at the meeting.

Key Messages

- **I hope you can attend the next annual CCFAM Deputy Ministers' meeting, which is being planned for April 2019 in Saskatchewan.**
 - **We will be circulating an agenda for comment in the coming weeks. I would appreciate any views you may have on priority issues that could be addressed at the upcoming meeting.**
2. ***Aquatic invasive species (AIS)*** – DFO collaborates with Manitoba to prevent the spread of AIS, particularly zebra mussels. However, Manitoba is concerned with DFO's capacity to implement the *Aquatic Invasive Species Regulations*. In particular, they would like increased federal assistance to control for AIS at the Manitoba-U.S. border.

Key Messages

- **I recognize the efforts Manitoba is making in fighting aquatic invasive species, and the collaborative efforts we are making together through the CCFAM infrastructure and other bilateral tables.**

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If pressed on resources / capacity

- **I understand controlling for aquatic invasive species, particularly at the Manitoba-U.S. border, requires coordinated and effective use of both federal and provincial resources.**
 - **I am aware of Manitoba's concerns with respect to resource capacity, and will be looking for opportunities to re-calibrate and better leverage our existing resources to improve controls for aquatic invasive species.**
3. ***Marine Mammal Regulations and the Churchill Estuary*** – The amended Regulations provide for a general 100-metre approach distance restriction. However, due to the geography of the area and local abundance of belugas, the limit within the Churchill Estuary was set at 50 meters.
- Tour operators in Churchill have indicated that it is difficult to remain in compliance with the minimum distance set by the Regulations while providing tours in the narrow Churchill Estuary. They are seeking an authorization under the Regulations for certain disturbance activities. A Judicial Review has been filed against the Department by Churchill tour operators, and a Department of Justice litigator has been assigned to the file.

Key Messages

- **DFO's disturbance provisions are intended to prevent threats to marine mammals.**
 - **The Department has held technical briefings on the regulations with industry and we will continue to offer to work with eco-tourism operators to discuss the application of the Regulations.**
4. ***Freshwater Fish Marketing Corporation*** - In September 2018, DFO's Minister announced the establishment of a Ministerial Advisory Panel to examine ways to transform the FFMC so it remains modern and competitive in today's open market; and to explore new governance and ownership models that support collaboration and cooperation amongst fish harvesters. The Panel met with the Province of Manitoba in late 2018 and will report back to the Minister with its finding in late March.

Key Messages

- **I understand the Province of Manitoba recently met with the FFMC Advisory Panel. I'd be interested in any perspectives you could share.**
- **Going forward, it will be important we continue to ensure lines of communication are open as we determine a long-term solution for the FFMC.**

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Follow Up (For Deputy Minister's use only)

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Annex A

MANITOBA

Bruce Gray

Deputy Minister, Manitoba Sustainable Development



Bruce Gray has been the Deputy Minister of Manitoba Sustainable Development (MSD) since November 2018. He was previously the Assistant Deputy Minister.

Mr. Gray has also held the roles of Senior Assistant Deputy Minister for the Department of Finance and Executive Director, Fiscal and Capital Planning at the Treasury Board Secretariat. He also previously worked as a Senior Fiscal Policy Analyst with the Saskatchewan Government. In addition, from 2010-2016, Mr. Gray taught public sector financial management at the University of Manitoba.

Mr. Gray holds a Master of Public Administration from the University of Winnipeg (1990) and a Bachelor of Arts (Honours) in Political Science and Justice and Law Enforcement from the University of Winnipeg (1988).

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Annex B

Background

1. Aquatic invasive species (AIS)

Zebra mussels were confirmed in Lake Winnipeg in 2013 and in Cedar Lake in 2015. Manitoba is actively engaged in education, outreach and monitoring. In 2015 Manitoba proclaimed new AIS legislation, which provided a broader suite of tools to prevent spread and movement of AIS.

DFO has contributed significant support for zebra mussel activities in Manitoba, including support for eradication efforts; a risk assessment on the freshwater recreational boating pathway to develop science advice for the management of this pathway; and a socio-economic risk assessment of zebra mussels in Lake Winnipeg and the broader drainage basin. DFO has also created an AIS Prairies Unit in Winnipeg with two full-time staff. Two additional DFO enforcement staff are anticipated in the region in 2019; responsibilities will include enforcing the *Aquatic Invasive Species Regulations*.

In March 2018, DFO held the first Prairies AIS meeting where attendees (including Manitoba, Alberta and Saskatchewan) discussed key priorities and opportunities to collaborate with DFO. As a result of the workshop, a Prairies AIS Steering Committee was established to provide a platform for DFO and provinces to review and guide work plan priorities for the DFO Prairies Area AIS Program.

2. Implementation of the *Fisheries Act*

Bill C-68 has been referred to the Senate Committee on Fisheries and Oceans. It is expected that the Committee will begin its review of Bill C-68 in late February or March. Royal Assent and Coming into Force of a revised Act is planned for later in 2019.

While Bill C-68 is undergoing review by the Senate, DFO is developing the regulations, policies, and other program instruments to be used if the Bill receives Royal Assent. Collaborative work with industry, provinces, and other stakeholders is an important part of this process. Current engagement activities have focused on providing briefings on the proposed amendments contained in Bill C-68, and receiving feedback from partners and stakeholders, including with the Fisheries Act Task Group under the Canadian Council of Fisheries and Aquaculture Ministers.

The Department is aware of concerns raised by industry, provinces and others, related to subsection 2(2) of Bill C-68 to deem flow as fish habitat. The Bill proposes authorities to make regulations to designate certain projects that would require permits under a revised Act. One of the main purposes of these regulations would be to align *Fisheries Act* requirements with other federal impact assessment processes. For this reason, DFO consideration of designated projects regulations under the *Fisheries Act* will not be launched before completion of the Designated Projects List under the proposed *Impact Assessment Act*.

DFO is directing significant effort on the expansion of programs to modernize its approach to fish and fish habitat protection. This will increase capacity to support regulatory and enforcement

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activities, but will also focus capacity to undertaking integrated planning of fish and fish habitat resources, to engage meaningfully with partners and stakeholders, and to report to Canadians on results. DFO is also developing dedicated capacity to support the Government of Canada Indigenous Reconciliation agenda in the context of fish and fish habitat protection.

3. Marine Mammal Regulations and the Churchill Estuary

In July 2018, amendments to the *Marine Mammal Regulations* set out new rules for whale watching and approaching marine mammals. The amendments make it possible for anyone in contravention of the Regulations to be charged with an offence under the *Fisheries Act*. The minimum approach distance was set at 100 metres in most locations in Canada (with some restrictions being set at 200-400 metres for some locations and species), but was lowered to 50 metres in parts of the Churchill Estuary and Seal River in Manitoba due to the geography of the area and local abundance of belugas.

However, tour operators in Churchill have indicated that a 50-metre approach limit may still make it hard for them to operate due to the narrow estuary and curious nature of beluga. DFO advised the tour operators that the Regulations are not intended to apply to situations in which a marine mammal approaches a stationary vessel that was outside the proscribed approach distance from the marine mammal at the time that the vessel became stationary.

In August 2018, two members of the Churchill Beluga Whale Watchers Tour Operators Association submitted a Judicial Review against the Regulations. A litigator has been assigned to this file and all correspondence on this issue is reviewed by a legal team comprised of Department of Justice and departmental Legal Services Unit. There has been Ministerial correspondence on this issue over the past year with federal and provincial government representatives, including correspondence with Churchill Mayor Michael Spence in early 2019.

One way that DFO is addressing the issue of aquatic species at risk is through the Nature Fund. DFO's Ecosystem Management sector received \$55M in Grants and Contributions over five years to contribute to the recovery of aquatic species at risk through the Nature Fund. The Nature Fund seeks to support recovery actions in priority places for aquatic species at risk, to mitigate priority threats, and support stewardship and capacity-building for Canada's aquatic ecosystems. Eligible recipients under the Nature Fund will include provincial, territorial, and municipal governments; industry and industry associations; non-governmental organizations; Indigenous organizations and groups, and post-secondary institutions.